

REMARKS/ARGUMENTS

Claims 1-5, 7-16, 18, 19, 36-41, 43-52, 54-55, 72-75, and 80 are pending. Claims 6, 17, 20-35, 42, 53-54, 56-71, and 76-79 have been cancelled without prejudice. Applicants respectfully request reconsideration of the pending claims.

Applicants note that the Office action Summary indicates that claim 35 is pending, but Applicants cancelled claim 35 in response to a Restriction Requirement.

Claims 1-19, 36-55, 72-75, and 80 are rejected under 35 U.S.C. 102(e) as being anticipated by Flavin, U.S. Pub. No. 2002/0038331. Applicants respectfully traverse.

Anticipation requires that the identical invention must be shown in a single reference in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the Flavin patent application does not show the identical invention claimed.

Amended claims 1, 37, and 73 describe receiving from a user selected information for monitoring, wherein the selected information for monitoring includes user selection of a level of monitoring, wherein each level of monitoring provides a different level of detail (e.g., Specification page 7, paragraph 43 - page 8, paragraph 46), receiving from the user identification of a schedule for monitoring of the selected information, wherein the schedule consists of a group of schedule records, each of which is a combination of a start date and time and a monitoring level (e.g., Specification, page 9, paragraph 47), monitoring application performance in accordance with the selected information and in accordance with the identified schedule, wherein the monitoring commences with a first schedule record, wherein the monitoring changes when a current time is a start time and date of another schedule record, and wherein the monitoring continues through successive schedule records (e.g., Specification, page 9, paragraph 47), and making monitored performance information available to the user in accordance with the selected information.

Amended claims 7, 43, and 74 describe prompting a user to select a server or server group, a resource, and a threshold or condition for notification, in response to the prompting, receiving from the user information used for one of a threshold condition type of trap, a number

of hits type of trap, and a resource consumption type of trap, wherein a trap is capable of providing a notification or alert to the user (e.g., Specification, page 10, paragraph 50 – page 11, paragraph 54), comparing the value or quality of a parameter to the threshold or condition, and, if the parameter reaches the threshold or condition, logging information concerning the parameter.

Amended claims 15, 51, and 75 describe providing the user with performance information, receiving from a user a selection of one of request analysis, method analysis, SQL analysis, and application server analysis (e.g., Specification, page 14, paragraph 62 – page 15, paragraph 65), prompting the user to select a metric, wherein the metric is based on the user selection of one of the request analysis, the method analysis, the SQL analysis, and the application server analysis (e.g., Specification, page 14, paragraph 62 – page 15, paragraph 65), in response to receiving the metric from the user, providing a trend analysis to the user (e.g., Specification, page 14, paragraph 62 – page 15, paragraph 65), receiving from the user a request for more specific performance information, and providing more detailed performance information.

On the other hand the Flavin patent application describes monitoring processes frequently monitor performance criteria of application servers, and the monitoring may be performed periodically, continuously in a rotating fashion or in any other convenient manner (page 8, paragraph 93). Performance criteria for each monitored server is stored in a flash database (page 8, paragraph 93). When a user logs out or is otherwise terminated from an application session, logout information for the user and the last application(s) running for that user, including the identity of the server that the user logged out of or was terminated from is stored in the flash database (page 8, paragraph 93). The administrative sever receives a request from a user for the user's web top, and the flash web top process determines the best performing server for each permitted application for the user based on the flash database (page 8, paragraph 94).

Applicants respectfully submit that such monitoring and use of the flash database described in the Flavin patent application does not anticipated the subject matter of amended claims 1, 7, 15, 37, 43, 51, 73, 74, and 75.

Dependent claims 2-5, 8-14, 16, 18, 19, 36, 38-41, 44-50, 52, 54-55, 72, and 80 each incorporate the language of one of independent claims 1, 7, 15, 37, 43, 51, 73, 74, and 75 and add additional novel elements. Therefore, dependent claims 2-5, 8-14, 16, 18, 19, 36, 38-41, 44-

50, 52, 54-55, 72, and 80 are not anticipated by the Flavin patent application for at least the same reasons as were discussed with respect to claims 1, 7, 15, 37, 43, 51, 73, 74, and 75.

Conclusion

For all the above reasons, Applicant submits that the pending claims 1-5, 7-16, 18, 19, 36-41, 43-52, 54-55, 72-75, and 80 are patentable over the cited art. Should any additional fees be required beyond those paid, please charge Deposit Account No. 09-0460.

The attorney of record invites the Examiner to contact her at (310) 553-7973 if the Examiner believes such contact would advance the prosecution of the case.

Dated: October 5, 2007

By: _____/Janaki K. Davda/_____

Janaki K. Davda
Registration No. 40,684

Please direct all correspondences to:

Janaki K. Davda
Konrad Raynes & Victor, LLP
315 South Beverly Drive, Ste. 210
Beverly Hills, CA 90212
Tel: (310) 553-7973
Fax: 310-556-7984